

February 4, 2022

**VIA ECF**

The Honorable P. Kevin Castel  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *In re Google Digital Advertising Antitrust Litigation*, 1:21-md-03010 (PKC)

Dear Judge Castel:

We write on behalf of all private plaintiff groups regarding Google's non-compliance with the Court's multiple prior orders. Pursuant to Your Honor's Individual Practices 1.A.iv, counsel note that there is currently no conference scheduled in this matter.

As noted in plaintiffs' February 1, 2022, letter (ECF No. 239), plaintiffs have been expecting Google to produce all approximately 2.3 million documents pursuant to this Court's orders. The Court's orders did not authorize Google to make a smaller production to the other plaintiffs by applying "search strings" and "identif[ying] custodians" who "focused on ad tech." Pltfs.' Ltr., Ex. A at 2 (Feb. 1, 2022), ECF No. 239-1.

Google's unilateral process of selecting what to produce has subtracted clearly relevant documents from its production to private plaintiffs. Google has withheld at least 34 specific documents that were used in the States' Third Amended Complaint. Moreover, Google has withheld over 1,500 documents that were produced to Texas in response to a civil investigative demand that even Google concedes was related to this case. Pltfs.' Ltr. at 3 n.1, ECF No. 239 (Feb. 1, 2022). Google states that it "produced every document from custodians whose responsibilities focused on ad tech." Google Ltr. at 3 (Feb. 2, 2022), ECF No. 240. And yet, to take one example, while State plaintiffs received 7,870 documents from Sam Cox, Google's former product manager for many of its display advertising tools, private plaintiffs received over 250 fewer documents for which he is the primary custodian. Google's unilateral determination of what it asserts are documents "related" to these cases is flawed.

Google's actions are contrary to the process set out by this Court, which was intended to efficiently and effectively manage initial discovery in this MDL. The Court's orders were appropriately designed to quickly place all plaintiffs in this MDL on even footing while formal discovery procedures were being negotiated.

The private plaintiffs request that the Court enforce its previous orders and compel Google to produce to all plaintiffs, by February 11, 2022, the approximately 2.3 million documents that "Google has previously produced to the State of Texas." Order at 1 (Sept. 24, 2021), ECF No. 129. The private plaintiffs also request that Google provide plaintiffs on the same date a privilege log for any materials withheld or redacted within that production, as none

was included with Google's production on January 20, 2022. Irrespective of whether Google complied with its obligation to produce a privilege log as part of the States' investigation, it should be required to produce one here for any withheld or redacted documents.

**For Associated Newspapers Ltd.  
and Mail Media, Inc.**

Respectfully submitted,

/s/ John Thorne

John Thorne

Daniel G. Bird

Eric J. Maier

Mark P. Hirschboeck

**KELLOGG, HANSEN, TODD, FIGEL  
& FREDERICK, P.L.L.C.**

1615 M Street, NW, Suite 400

Washington, DC 20036

Tel.: (202) 326-7900

jthorne@kellogghansen.com

dbird@kellogghansen.com

emaier@kellogghansen.com

mhirschboeck@kellogghansen.com

*Counsel for Associated Newspapers Ltd. and Mail  
Media, Inc.*

**For the Publisher Class Plaintiffs**

/s/ Philip C. Korologos

**BOIES SCHILLER FLEXNER LLP**

Philip C. Korologos

pkorologos@bsflp.com

**BOIES SCHILLER FLEXNER LLP**

55 Hudson Yards, 20th Floor

New York, NY 10001

Tel.: (212) 446-2300

Fax: (212) 446-2350

David Boies

[dboies@bsflp.com](mailto:dboies@bsflp.com)

**BOIES SCHILLER FLEXNER LLP**

333 Main Street

Armonk, NY 10504

Tel.: (914) 749-8200

Fax: (914) 749-8300

James Denvir  
[jdenvir@bsflfp.com](mailto:jdenvir@bsflfp.com)  
Jesse Panuccio  
[jpanuccio@bsflfp.com](mailto:jpanuccio@bsflfp.com)  
**BOIES SCHILLER FLEXNER LLP**  
1401 New York Avenue, NW  
Washington, DC 20005  
Tel.: (202) 895-7580  
Fax: (202) 237-6131

Mark C. Mao  
[mmao@bsflfp.com](mailto:mmao@bsflfp.com)  
**BOIES SCHILLER FLEXNER LLP**  
44 Montgomery Street, 41st Floor  
San Francisco, CA 94104  
Tel.: (415) 293-6820  
Fax: (415) 293-6899

Sabria A. McElroy  
[smcelroy@bsflfp.com](mailto:smcelroy@bsflfp.com)  
**BOIES SCHILLER FLEXNER LLP**  
401 E. Las Olas Blvd., Suite 1200  
Fort Lauderdale, FL 33301  
Tel.: (954) 377 4216  
Fax: (954) 356-0022

/s/ George A. Zelcs  
KOREIN TILLERY LLC  
George A. Zelcs  
[gzelcs@koreintillery.com](mailto:gzelcs@koreintillery.com)  
Randall P. Ewing  
[rewing@koreintillery.com](mailto:rewing@koreintillery.com)  
Marc A. Wallenstein  
[mwallenstein@koreintillery.com](mailto:mwallenstein@koreintillery.com)  
Jonathon D. Byrer  
[jbyrer@koreintillery.com](mailto:jbyrer@koreintillery.com)  
Ryan A. Cortazar  
[rcortazar@koreintillery.com](mailto:rcortazar@koreintillery.com)  
**KOREIN TILLERY LLC**  
205 North Michigan Avenue, Suite 1950  
Chicago, IL 60601  
Tel.: (312) 641-9750  
Fax: (312) 641-9751

Stephen M. Tillery

[stillery@koreintillery.com](mailto:stillery@koreintillery.com)

Michael E. Klenov

[mklenov@koreintillery.com](mailto:mklenov@koreintillery.com)

Carol L. O'Keefe

[cokeefe@koreintillery.com](mailto:cokeefe@koreintillery.com)

**KOREIN TILLERY LLC**

505 North 7th Street, Suite 3600

St. Louis, MO 63101

Tel.: (314) 241-4844

Fax: (314) 241-3525

*Counsel for Publisher Plaintiffs Genius Media Group, Inc., The Nation Company, L.P., and The Progressive, Inc.*

/s/ Eric L. Cramer

BERGER MONTAGUE PC

Eric L. Cramer

[ecramer@bm.net](mailto:ecramer@bm.net)

Michael C. Dell'Angelo

[mdellangelo@bm.net](mailto:mdellangelo@bm.net)

Caitlin G. Coslett

[ccoslett@bm.net](mailto:ccoslett@bm.net)

Patrick F. Madden

[pmadden@bm.net](mailto:pmadden@bm.net)

Robert Litan

[rlitan@bm.net](mailto:rlitan@bm.net)

**BERGER MONTAGUE PC**

1818 Market St., Suite 3600

Philadelphia, PA 19103

Tel.: (215) 875-3000

Fax: (215) 875-4604

Sophia M. Rios

[srios@bm.net](mailto:srios@bm.net)

**BERGER MONTAGUE PC**

401 B Street, Suite 2000

San Diego, CA 92101

Tel.: (619) 489-0300

Fax: (215) 875-4604

Daniel J. Walker  
[dwalker@bm.net](mailto:dwalker@bm.net)  
**BERGER MONTAGUE PC**  
2001 Pennsylvania Ave., NW Suite 300  
Washington DC 20006  
Tel.: (202) 559-9745

Michael K. Yarnoff  
[myarnoff@kehoelawfirm.com](mailto:myarnoff@kehoelawfirm.com)  
KEHOE LAW FIRM, P.C.  
Two Penn Center Plaza  
1500 JFK Blvd., Suite 1020  
Philadelphia, PA 19102  
Telephone: (215) 792-6676

*Counsel for Publisher Plaintiff Sterling  
International Consulting Group*

**For the Advertiser Class Plaintiffs**

/s/ Dena C. Sharp  
Dena C. Sharp (pro hac vice)  
Jordan Elias (pro hac vice)  
Scott M. Grzenczyk (pro hac vice)  
**GIRARD SHARP LLP**  
601 California Street, Suite 1400  
San Francisco, CA 94108  
Tel: (415) 981-4800  
Fax: (415) 981-4846  
[dsharp@girardsharp.com](mailto:dsharp@girardsharp.com)  
[jelias@girardsharp.com](mailto:jelias@girardsharp.com)  
[scottg@girardsharp.com](mailto:scottg@girardsharp.com)

Archana Tamoshunas (AT-3935)  
**TAUS, CEBULASH & LANDAU, LLP**  
80 Maiden Lane, Suite 1204  
New York, NY 10038  
Tel: (212) 931-0704  
Fax: (212) 931-0703  
[atamoshunas@tellaw.com](mailto:atamoshunas@tellaw.com)

April Lambert (pro hac vice)  
RADICE LAW FIRM, PC  
475 Wall Street  
Princeton, NJ 08540  
Tel: (646) 245-8502  
Fax: (609) 385-0745  
alambert@radicelawfirm.com

*Attorneys for Advertiser Plaintiffs Surefreight  
Global LLC d/b/a Prana Pets and Hanson Law  
Office, as successor-in-interest to Hanson Law  
Firm, PC*

/s/ Tina Wolfson  
Tina Wolfson (TW-1016)  
Theodore W. Maya (pro hac vice forthcoming)  
Bradley K. King (BK-1971)  
Rachel R. Johnson (pro hac vice forthcoming)  
**AHDOOT & WOLFSON, PC**  
2600 West Olive Avenue, Suite 500  
Burbank, CA 91505  
Tel.: (310) 474-9111  
Fax: (310) 474-8585  
twolfson@ahdootwolfson.com  
tmaya@ahdootwolfson.com  
bking@ahdootwolfson.com  
rjohnson@ahdootwolfson.com

*Attorneys for Advertiser Plaintiff Vitor Lindo*

/s/ Fred T. Isquith Jr.  
Fred T. Isquith, Jr. (FI-1064)  
**ISQUITH LAW**  
220 East 80th Street  
New York, NY 10075  
Tel: (607) 277-6513  
[isquithlaw@gmail.com](mailto:isquithlaw@gmail.com)

Fred T. Isquith Sr.  
Fred T. Isquith, Sr. (FI-6782)  
Robert S. Schachter (RS-7243)  
**ZWERLING, SCHACHTER & ZWERLING,  
LLP**  
41 Madison Avenue, 32nd Floor  
New York, NY 10010

Tel: (212) 223-3900  
Fax: (212) 371-5969  
[ftisquith@zsz.com](mailto:ftisquith@zsz.com)  
[rschachter@zsz.com](mailto:rschachter@zsz.com)  
[sshah@zsz.com](mailto:sshah@zsz.com)

Solomon B. Cera (admitted pro hac vice)  
Pamela A. Markert (admitted pro hac vice)

**CERA LLP**

595 Market St., Suite 1350  
San Francisco, CA 94105  
Telephone: (415) 777-2230  
Fax: (415) 777-5189  
[scera@cerallp.com](mailto:scera@cerallp.com)  
[pmarkert@cerallp.com](mailto:pmarkert@cerallp.com)

Kate. M. Baxter-Kauf  
Heidi Siltan (admitted pro hac vice)  
Kate M. Baxter-Kauf (admitted pro hac vice)  
**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**  
100 Washington Avenue S., Suite 2200  
Minneapolis, MN 55401-2159  
Tel: (612) 596-4092  
[hmsilton@locklaw.com](mailto:hmsilton@locklaw.com)  
[kmbaxter-kauf@locklaw.com](mailto:kmbaxter-kauf@locklaw.com)

Richard Vita (pro hac vice forthcoming)  
**VITA LAW OFFICES, P.C.**  
100 State Street, Suite 900  
Boston, MA 02109  
Tel: (617) 426-6566  
[rjv@vitalaw.com](mailto:rjv@vitalaw.com)

*Attorneys for Plaintiffs SPX Total Body Fitness  
LLC, d/b/a The Studio Empower, SkinnySchool LLC  
d/b/a/ Maria Marques Fitness, and Mint Rose Day  
Spa LLC, on Behalf of Themselves and All Others  
Similarly Situated*

/s/ Jonathan Rubin

Jonathan L. Rubin (Pro Hac Vice)

**MOGINRUBIN LLP**

2191 L Street, NW, Suite 300

Washington, D.C. 20037

(202) 630-0616

[jrubin@moginrubin.com](mailto:jrubin@moginrubin.com)

Daniel J. Mogin (Pro Hac Vice)

Jennifer M. Oliver (N.Y. Bar No. 4547428)

Timothy Z. LaComb (Pro Hac Vice)

**MOGINRUBIN LLP**

600 West Broadway, Suite 3300

San Diego, CA 92101

(619) 687-6611

[dmogin@moginrubin.com](mailto:dmogin@moginrubin.com)

[joliver@moginrubin.com](mailto:joliver@moginrubin.com)

[tlacomb@moginrubin.com](mailto:tlacomb@moginrubin.com)

*Counsel for Plaintiffs, Cliffy Care, Kinin, Rodrock,  
and Raintree*

Richard F. Lombardo (Pro Hac Vice Forthcoming)

Peter F. Rottgers (Pro Hac Vice Forthcoming)

**SHAFFER LOMBARDO SHURIN**

2001 Wyandotte Street

Kansas City, MO 64108

(816) 931-0500

[rlombardo@sls-law.com](mailto:rlombardo@sls-law.com)

[prottggers@sls-law.com](mailto:prottggers@sls-law.com)

*Counsel for Plaintiffs, Cliffy Care, Rodrock, and  
Raintree*

Jason S. Hartley (Pro Hac Vice Forthcoming)

Jason M. Lindner (Pro Hac Vice Forthcoming)

**HARTLEY LLP**

101 W. Broadway, Ste 820

San Diego, CA 92101

(619) 400-5822

[hartley@hartleyllp.com](mailto:hartley@hartleyllp.com)

[lindner@hartleyllp.com](mailto:lindner@hartleyllp.com)

*Counsel for Plaintiff, Kinin*



**For the Direct Newspaper Publishers**

/s/ Serina M. Vash

Serina M. Vash

New York Bar No.: 2773448

[svash@hermanjones.com](mailto:svash@hermanjones.com)

**HERMAN JONES LLP**

153 Central Avenue, # 131

Westfield, NJ 07090

(404) 504-6516

John C. Herman

[jherman@hermanjones.com](mailto:jherman@hermanjones.com)

**HERMAN JONES LLP**

3424 Peachtree Road, N.E., Suite 1650

Atlanta, GA 30326

(404) 504-6500

Paul J. Geller

[pgeller@rgrdlaw.com](mailto:pgeller@rgrdlaw.com)

Stuart A. Davidson

[sdavidson@rgrdlaw.com](mailto:sdavidson@rgrdlaw.com)

Alexander C. Cohen

Maxwell H. Sawyer

**ROBBINS GELLER RUDMAN & DOWD LLP**

120 East Palmetto Park Road, Suite 500

Boca Raton, FL 33432

(561) 750-3000

David W. Mitchell

[davidm@rgrdlaw.com](mailto:davidm@rgrdlaw.com)

Steven M. Jodlowski

[sjodlowski@rgrdlaw.com](mailto:sjodlowski@rgrdlaw.com)

**ROBBINS GELLER RUDMAN & DOWD LLP**

655 West Broadway, Suite 1900

San Diego, CA 92101

(619) 231-1058

Paul T. Farrell, Jr.

[paul@farrellfuller.com](mailto:paul@farrellfuller.com)

Michael J. Fuller, Jr.

[mike@farrellfuller.com](mailto:mike@farrellfuller.com)

**FARRELL & FULLER, LLC**

1311 Ponce De Leon, Suite 202

San Juan, PR 00907

(939) 293-8244

Robert P. Fitzsimmons

[bob@fitzsimmonsfirm.com](mailto:bob@fitzsimmonsfirm.com)

Clayton J. Fitzsimmons

[clayton@fitzsimmonsfirm.com](mailto:clayton@fitzsimmonsfirm.com)

Mark A. Colantonio

[mark@fitzsimmonsfirm.com](mailto:mark@fitzsimmonsfirm.com)

**FITZSIMMONS LAW FIRM PLLC**

1609 Warwood Avenue

Wheeling, WV 26003

(304) 277-1700

*Co-Counsel for the Newspaper Plaintiffs*

Copy to All Counsel of Record via ECF